



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

EPA-R09-OAR-2014-0336 FRL-9912-64-Region-9]

Revisions to the California State Implementation Plan, San  
Joaquin Valley Unified Air Pollution Control District

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking direct final action to approve revisions to the San Joaquin Valley Unified Air Pollution Control District [SJVUAPCD] portion of the California State Implementation Plan (SIP). These revisions concern basic enforcement authorities under the Clean Air Act (CAA or the Act).

**DATES:** This rule is effective on [Insert date 60 days from the date of publication in the Federal Register] without further notice, unless EPA receives adverse comments by [Insert date 30 days from the date of publication in the Federal Register]. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

**ADDRESSES:** Submit comments, identified by docket number EPA-R09-OAR-2014-0336, by one of the following methods:

1. Federal eRulemaking Portal: [www.regulations.gov](http://www.regulations.gov). Follow the on-line instructions.
2. E-mail: [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov).
3. Mail or deliver: Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

*Instructions:* All comments will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through [www.regulations.gov](http://www.regulations.gov) or e-mail. [www.regulations.gov](http://www.regulations.gov) is an "anonymous access" system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* Generally, documents in the docket for this action are available electronically at [www.regulations.gov](http://www.regulations.gov) and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105-3901. While all documents in the docket are listed at [www.regulations.gov](http://www.regulations.gov), some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Vanessa Graham, EPA Region IX, (415) 947-4120, [graham.vanessa@epa.gov](mailto:graham.vanessa@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, "we," "us," and "our" refer to EPA.

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#### I. The State's Submittal.

##### A. What rules did the State submit?

Table 1 lists the rules we are approving with the dates that they were adopted by SJVUAPCD and submitted by the California Air Resource Board (CARB).

Table 1 - Submitted Rules

| Local Agency | Rule # | Rule Title         | Adopted  | Submitted |
|--------------|--------|--------------------|----------|-----------|
| SJVUAPCD     | 1040   | Enforcement        | 12/17/92 | 09/28/94  |
| SJCUAPCD     | 1050   | Order of Abatement | 12/17/92 | 09/28/94  |
| SJVUAPCD     | 1070   | Inspections        | 12/17/92 | 09/28/94  |
| SJVUAPCD     | 1090   | Penalty            | 12/17/92 | 09/28/94  |

On March 28, 1995, the submittal for SJVUAPCD Rules 1040, 1050, 1070, and 1090 was deemed by operation of law to meet the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

B. Are there other versions of these rules?

There are no previous versions of Rules 1040, 1050, 1070 and 1090 in the SIP.

C. What is the purpose of the submitted rules?

Rule 1040 defines provisions of the California Health and Safety Code under which SJVUAPCD rules are enforced.

Rule 1050 explains the procedures for issuing an order of abatement, the rules governing hearings in the issuance of orders of abatement and the penalties for violating orders of abatement.

Rule 1070 outlines the district's authority in determining compliance with other District rules and regulations. It also explains that inspections shall be made by the enforcement agency for the purpose of obtaining information necessary to determine whether air pollution sources are in compliance with applicable rules and regulations.

Rule 1090 requires that any person or source operation comply with SJVUAPCD rules and regulations.

**II. EPA's Evaluation and Action.**

A. How is EPA evaluating the rules?

Generally, SIP rules must be enforceable (see section 110(a) of the Act), and must not relax existing requirements. (See section 110(a)(1)). These rules support some of the basic infrastructure SIP requirements described in section 110(a)(2) of

the CAA, but do not impose any specific air pollution control or emission limitations, so we are not evaluating them with respect to Reasonably Available Control Technology (RACT) or other CAA requirements regarding SIP stringency.

Guidance and policy documents that we use to evaluate enforceability and other CAA requirements consistently include the following:

"Guidance Document for Infrastructure State Implementation Plan" Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2), EPA (September 2013).

B. Do the rules meet the evaluation criteria?

We believe these rules are consistent with the relevant policy and guidance regarding enforceability and SIP relaxations. Our Technical Support Document (TSD) has more information on our evaluation.

C. Public comment and final action.

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal**

**Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by [Insert date 30 days from date of publication in the Federal Register], we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on [Insert date 60 days from date of publication in the Federal Register]. This will incorporate these rules into the federally enforceable SIP.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

### **III. Statutory and Executive Order Reviews.**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves

State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the

Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [Insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of today's Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur Oxides, Volatile organic compounds.

Dated: May 23, 2014.

Jared Blumenfeld,  
Regional Administrator,  
Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

**PART 52 APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS.**

1. The authority citation for Part 52 continues to read as follows:

**AUTHORITY:** 42 U.S.C. 7401 et seq.

Subpart F - California

2. Section 52.220, is amended by adding paragraph (c) (199) (i) (D) (10) to read as follows:

**§52.220 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(199) \* \* \*

(i) \* \* \*

(D) \* \* \*

(10) Rules 1040, 1050, 1070 and 1090 adopted on June 18, 1992 and amended on December 17, 1992.

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